

## **REMARKS**

Upon entry of the present Amendment-D, claims 1, 5, 7, 10, 12 and 18-19 are pending in the present application, of which claims 1, 5, 7 and 10 are independent. Claims 1, 5, 7, and 10 are amended herein. In addition, claims 3, 8, and 13-16 are canceled, and new claims 18-19 are added.

The claims have been amended to more clearly define the subject matter which applicant regards as his invention. No new matter is added to the application and the amendments are fully supported by the original disclosure.

The above-identified Office Action has been reviewed, the applied references carefully considered, and the Examiner's comments carefully weighed. In view thereof, the present Amendment-D is submitted. It is contended that by the present amendment, all bases of objection and rejection set forth in the Office Action have been traversed and overcome. Accordingly, reconsideration and withdrawal of the objection and rejection is respectfully requested.

## **IN THE CLAIMS**

### **Claim Rejections – 35 USC §103**

In the Office Action mailed on August 4, 2006 (item 3, page 2), the Examiner rejected claims 1, 3-5, 7-10, and 12-17 under 35 USC 103(a) as unpatentable over Buchner et al (US 6,194,997) in view of Desai (US 6,236,850). In the Advisory Action mailed on November 30, 2006, the Examiner indicated that the applicant's amendments and request for reconsideration did not place the application in consideration for allowance since the combination of Buchner and Desai disclose an interrupting unit for interrupting power to a transceiver. The Examiner further states that

the limitation “a switch for detecting that the user has boarded the vehicle is included as one of the plurality of switches” is disclosed by Buchner with respect to monitoring circuits 13, 14, 15 of Fig. 3, and as further disclosed by Buchner, communication is activated between a transceiver unit and a transmitter 9 when the monitoring switches are activated (col. 4, lines 7-25).

#### Applicant's Response

In order to promote the prosecution of the application, claims 1, 5, 7 and 10 have been amended herein to more clearly define the subject matter which applicant regards as his invention. In particular, claims 1, 5, 7 and 10 have been amended herein to recite that the transmitter outputs a request signal in response to an on operation of a switch for detecting that the user has boarded the vehicle. This feature, as claimed in claims 4, 9 and 17 (now canceled), is supported in the original specification on page 6, lines 15-23, whereby the claimed feature is fully supported in the original specification, and no new matter is added.

In this regard, the applicant respectfully disagrees that Buchner as modified by Desai make obvious a switch for detecting that the user has boarded the vehicle is the activation switch, since Buchner does not teach using a switch for detecting that the user has boarded the vehicle to initiate the dialog between the key 9 and control unit 1, as claimed. Rather, Buchner discloses that the monitoring system 13, 14, 15 to determine whether or not someone is in the interior of the vehicle upon sensing that a door has been closed (col. 4. lines 7-25). In particular, Buchner clearly discloses that the closing of the door triggers both the monitoring system and the control unit. Thus, the applicant disagrees that Buchner teaches using the monitoring system 13, 14, 15 as means for initiating the dialog between the key 9 and control unit 1.

The applicant submits that it is very advantageous to include a switch for detecting that the user has boarded the vehicle (boarding detection switch) as the means by which

communication between the portable transceiver and controller is triggered. When such a boarding detection switch has been switched on, a request signal is automatically output from a controller at the point in time that the user boards the vehicle, or alternatively, receipt of a request signal from a portable transmitter is started, whereby it is possible to significantly improve vehicle operability.

As regards claim 12, the applicant respectfully disagrees with the rejections of this claim for the reasons stated above with respect to claim 10 as amended herein, from which this claim depends.

For all of the foregoing reasons, the applicant requests consideration and withdrawal of the rejection of claims 1, 5, 7, 10, and 12 under 35 USC § 103(a).

### **Other Matters**

New claims 18 and 19 add further limitations to the invention as claimed in claim 5 and claim 7, respectively. In particular, these claims are directed to the inventive features shown in Fig. 11 (page 22, line 13-page 23, line 5) in which, when the engine has been turned off, the switching unit permits continued power supply to the transmitter and receiver for a predetermined period of time, and after the predetermined period, no power is supplied to the transmitter and receiver for an indefinite period of time. This feature is not suggest or disclosed by Buchner as modified by Desai, since Desai does not disclose a “full stop” mode of power conservation in which no power is supplied to the circuits for an indefinite period.

In fact, Desai *teaches away* from a configuration in which the power supply to the receiver is turned off, and remains off, for an extended period of time, since Desai teaches that

such a configuration does not permit the system to respond to a transmitted signal without excessive delay due to receiver circuitry start-up time requirements (col. 2, lines 34-49). Because Desai teaches away from the claimed invention, the Desai can be considered to show that the applicant's invention is non-obvious since the Court of Appeals for the Federal Circuit has established that a prima facie case of obviousness can be rebutted if the applicant . . . can show 'that the art in any material respect taught away' from the claimed invention." *In re Geisler*, 116 F.3d 1465, 1469, 43 USPQ2d 1362, 1365 (CAFC 1997). "A reference may be said to teach away when a person of ordinary skill, upon reading the reference, . . . would be led in a direction divergent from the path that was taken by the applicant." *Tec Air, Inc. v. Denso Mfg. Mich. Inc.*, 192 F.3d 1353, 1360, 52 USPQ2d 1294, 1298 (CAFC 1999), *In re Haruna*, 249 F.3d 1327; 58 U.S.P.Q.2D 1517 (CAFC 2001).

### **Conclusion**

The applicant respectfully submits that all of the above amendments are fully supported by the original application. The applicant also respectfully submits that the above amendments do not introduce any new matter into the application or raise new matters for consideration by the Examiner.

Based on all of the foregoing, the applicant respectfully submits that all of the objections and rejections set forth in the Office Action are overcome, and that as presently amended, all of the pending claims are believed to be allowable over all of the references of record, whether considered singly or in combination. The applicant requests reconsideration and withdrawal of the rejection of record, and allowance of the pending claims.

If any issues remain unresolved, the applicant respectfully requests that the Examiner telephonically contact the applicant's undersigned representative to expeditiously resolve prosecution of the application.

Favorable consideration is respectfully requested.

Respectfully submitted,



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